IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No. 1648 of 2007
To
FIRST APPEAL No. 1667 of 2007

For Approval and Signature:

HONOURABLE MR.JUSTICE AKSHAY H.MEHTA

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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PROJECT OFFICE & 2 - Appellant(s)
Versus
SHAKRABEN WD/O UDESANGBHAI - Defendant(s)

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Appearance :
MS KIRAN PANDEY A.G.P for Appellant(s) : 1 - 3.
MR JAYESH PATEL for Defendant(s) : 1, 1.2.1, 1.2.2, 1.2.3, 1.2.4,1.2.5

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CORAM : HONOURABLE MR.JUSTICE AKSHAY H.MEHTA

Date : 22/03/2007

ORAL COMMON JUDGMENT

1. **ADMIT**. Learned advocate Mr. Jayesh Patel waives service of notice for admission. At the request of the

learned advocates for the parties, the matters are taken up for final disposal today itself. Mr. Jayesh Patel learned advocate for the respondents has supplied the paper book containing oral evidence as well as other documents. Hence, there is no need to call for the R & P of the case.

2. These appeals arise from the common judgment and award made by the learned Civil Judge (S.D.), Bharuch in Land Acquisition Reference Nos. 1671/1997 to 1690/1997 dated 31st December, 2004. They are therefore, heard together and they are now being disposed of by this common judgment. The lands in question were required for public purpose namely, construction of Narmada Canal. These lands are agricultural lands and they are situated at village Gajera, Taluka Jambusar, District Bharuch. Notification under Section 4 (1) of the Land Acquisition Act, 1894 [hereinafter referred to as the “Act”] was published in the Gazette on 12th October, 1995 and declaration under Section 6 of the Act was published on 2nd December, 1995. After due compliance of all the formalities the Special Land Acquisition Officer made the award on 10th February, 1997. By the said award the Special Land Acquisition Officer assessed the compensation at Rs.2.70 paise per sq. mtr. Since the

original applicants i.e., present respondents were not satisfied with the quantum of compensation, they made reference under Section 18 of the Act to the Collector, which ultimately culminated into the aforesaid reference cases. Before the District Court, the respondents claimed Rs.100=00 per sq. mtr. However, on the basis of the material produced before it, the Reference Court determined the compensation at the rate of Rs.21.95 paise per sq. mtr. In other words, the Reference Court granted additional compensation of Rs.19.25 paise per sq. mtr.

3. While determining the market value the Reference Court has placed reliance on the award of the District Court made in respect of lands at village Ucchad, Taluka Jambusar, District Bharuch. The said award was produced at Exh. 12. It was made in Land Acquisition Reference Cases No. 872/1987 to 885/1987 and Land Acquisition Reference Cases No. 237/1988 to 253/1988. In the said cases notification under Section 4 (1) of the Act was published on 8th December, 1983. The District Court determined the market value at Rs.7.10 paise per sq. mtr. It appears from the record that the said judgment was not challenged in the appeal and it has become final.

4. In these appeals, I have heard Ms. Kiran Pandey

learned A.G.P., for the applicants and Mr. Jayesh Patel learned advocate for the respondents. It is submitted by Ms. Pandey that the market value determined by the learned Judge is on higher side. According to her, the rate of compensation is required to be reduced substantially. As against that Mr. Jayesh Patel has submitted that notification under Section 4 of the Act was issued on 8th December, 1983 in the case of lands at village Ucchad and the present notification under Section 4 of the Act is published after about 12 years. He has, therefore, submitted that the principle of 10% annual increase is required to be applied. Mr. Patel has drawn my attention to the decision rendered by the Division Bench of this Court in First Appeals No. 961/2007 to 970/2007 dated 27th February, 2007 and First Appeal No. 1058/2007 to 1079/2007. In both these groups of appeals before the Division Bench, the subject matter was the lands of village Gajera. The Division Bench has determined the quantum of compensation at the rate of RS.15=00 per sq. mtr. In the said case, notification under Section 4 of the Act was issued in or around October, 1994. In the cases on hand, notification is dated 12th October, 1995. The difference is almost one year. Even calculating on the basis of the award at Exh. 12, the compensation can be awarded at the rate of

Rs.15.62 paise per sq. mtr., to round up Rs.15.70 paise per sq. mtr., for these lands. The compensation granted by the Reference Court appears to be on higher side and the award is, therefore, required to be modified. In other words, the compensation is required to be reduced from Rs.21.90 paise per sq. mtr., to Rs.15.62 paise per sq. mtr., the round up figure Rs.16.70 paise per sq. mtr. The respondents will be entitled to receive compensation at the modified rate. Rest of the benefits granted by the Reference Court will remain as they are.

5. In the result, the appeals are partly allowed with no order as to costs.

[Akshay H. Mehta, J.]

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